

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICE ISSUED TO

Essential Energy

TO: Essential Energy (ABN 37 428 185 226)
8 Buller Street
Port Macquarie NSW 2444

Infringement Notice No.: AER04-2014

1. The Australian Energy Regulator (AER):
 - (a) has reason to believe that Essential Energy (ABN 37 428 185 226) (**Essential**), which is a *distributor* within the meaning of the *National Energy Retail Law (Retail Law)*, has breached rule 125(2)(b) and 107(3) of the *National Energy Retail Rules (Retail Rules)*, in the manner set out in Schedule 1 to this Infringement Notice (**the first alleged breach**); and
 - (b) has decided to serve this Infringement Notice on Essential under section 277 of the National Gas Law Schedule to the *National Gas (South Australia) Act 2008 (National Gas Law)* as applied by section 308 of the Retail Law.
2. Rules 125(2) and 107(3) of the Retail Rules are civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

**WHAT CAN ESSENTIAL DO IN RESPONSE TO THIS
INFRINGEMENT NOTICE?**

4. Essential can choose whether or not to comply with this Infringement Notice. If Essential chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the first alleged breach. Essential is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the first alleged breach.
5. If Essential chooses to comply with this Infringement Notice, it must pay the infringement penalty by 23 January 2015, being not less than 28 days from the date of service of this Infringement Notice, beginning on the day after the day on which this Infringement Notice is served (**the compliance period**).
6. To ensure payment is made in accordance with this Infringement Notice, payment must be received on or before **23 January 2015**.

7. If Essential pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the first alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.

HOW DOES ESSENTIAL PAY THE INFRINGEMENT PENALTY?

8. Essential may pay the \$20,000 infringement penalty in two ways:
- (a) by cheque made out to the "ACCC Official Administered Account",* enclosing a copy of this Infringement Notice to:

Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

you should allow at least 5 business days for payment to be received

or

- (b) by electronic funds transfer to the following account:*

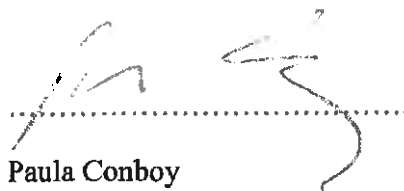
Account name: ACCC Official Administered Account
BSB: 032-730
Account: 146550
Description: AER04-2014

you should allow at least 2 business days for payment to be received.

* Please note that the AER is a constituent part of the Australian Competition and Consumer Commission (ACCC). The ACCC handles the receipt of infringement penalty payments for the AER.

9. Please allow sufficient time for your payment to be received within the compliance period.
10. Essential will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 10 December 2014



Paula Conboy
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(2)(b) AND RULE 107(3) OF THE NATIONAL ENERGY RETAIL RULES

1. Essential Energy (**Essential**) is a 'distributor' within the meaning of section 2 of the National Energy Retail Law.
2. Prior to 1 July 2013 premises at [REDACTED] New South Wales were registered as having life support equipment (**the premises**).
3. By reason of rule 2 of Part 4 of Schedule 3, and rule 125(1) of the National Energy Retail Rules (**Retail Rules**), Essential was required to comply with rules 107(3) and 125(2) of the Retail Rules in relation to the premises.
4. Pursuant to rule 125(2)(b) of the Retail Rules, a distributor must not de-energise the premises whilst a person continues to reside at the premises and requires the use of life support equipment, except in the case of an interruption under Division 6, Part 4 of the Retail Rules.
5. Pursuant to rule 107(3) of the Retail Rules a distributor must not de-energise a customer's premises except in accordance with Division 3. Rule 120(1)(a) of Division 3 provides a distributor must not de-energise a customer's premises where the premises are registered under Part 7 as having life support equipment.
6. At or about 2.52pm on 6 February 2014, Essential de-energised the premises, while a person residing at the premises continued to require the use of life support equipment.
7. The de-energisation was not an 'interruption' under Division 6, Part 4 of the Retail Rules.